
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

PERRY MARYBOY,

Defendant.

**MEMORANDUM DECISION AND
ORDER REGARDING SPECIAL
PROCEDURES FOR MAY 16, 2022**

Case No. 4:18-cr-00119-DN-CMR

District Judge David Nuffer

A jury is empaneled in this case. In the afternoon of Friday May 13, 2022, the day of jury selection, while selection was still underway, a panel member notified the court that a co-worker's spouse had received a positive test result for COVID-19. While the panel member had recent contact with the co-worker, the panel member had no contact with the co-worker's spouse. Nonetheless, after conferring with counsel, and finding that some persons present in these court proceedings are immunocompromised and have family members at high risk:

- the panel member was immediately excused,
- the panel members who had been seated near to the panel member were distanced; and
- the court recommended that all present should consider testing for COVID-19 on Sunday afternoon or evening using home testing or other available testing.

After court adjourned Friday, the excused panel member tested negative for COVID-19.

Assessment

This is not a time of generalized high COVID-19 risk in the community, such as has been experienced over the last two years, previous to the entry of [General Order 22-006](#), which

“largely lifted” “restrictions on hearings, trials, grand jury operations, reentry and specialty courts, and courthouse functions imposed by the Court’s previous pandemic-related [General Orders](#)”

This circumstance does not involve direct exposure of a jury panel member to COVID-19. According to [CDC guidelines](#), no response is required. However, some element of risk is presented by the third-level exposure of a jury panel member to a person who lives with a person who has tested positive for COVID-19 because some persons involved in these court proceedings are immunocompromised and have family members at high risk.

The courthouse has the benefit of very high-quality air circulation and filtration systems which ensure that air circulates frequently and is cleaned continuously. The courtroom is large enough to provide some spacing between jurors, counsel, trial teams, and court staff. The court has a supply of masks.

This order has been prepared with advice from Judge David Barlow, Chair of the Court Re-Opening Committee, and Kim Free, Clerk of Court, and has been provided to Chief Judge Robert Shelby. Counsel have been given a draft of the order.

Response and Order

To protect the jury, counsel, trial teams, and court staff, from the small risk created by this specific circumstance on a temporary basis, and to provide extraordinary assurance for Monday May 16, 2022:

IT IS HEREBY ORDERED:

1. The jury, counsel, trial teams, and court staff will receive a copy of this Order as soon as possible.

2. The jury, counsel, trial teams, and court staff are directed to consider Sunday evening May 15, 2022, and again Monday morning May 16, 2022, whether they have any of these symptoms:

fever or chills	difficulty breathing
cough	congestion or runny nose
headache	fatigue
shortness of breath	muscle or body aches
new loss of taste or smell	nausea or vomiting
sore throat	diarrhea

- a. If a jury member has any of those symptoms, or if they take a home test and test positive for COVID-19, they should contact the jury administrator by audio call or text message to a phone number which will be provided directly to them via email.
- b. If counsel, trial team members, or court staff have any of those symptoms, or if they take a home test and test positive for COVID-19, they must immediately contact Staff Attorney Andrew Munson by audio call or text message to a phone number which will be provided directly to them.

Testing is recommended but not required.

3. The Salt Lake County Health Department will be on site at the courthouse on Monday May 16, 2022, at 8:00 am. Tests will be made available and recommended (but not required) for the empaneled jury (who will assemble for testing in Room 2.402), and for counsel, trial teams, and court staff (who will assemble for testing in Room 2.302). (Maps showing these locations are attached. Following testing each juror will be directed to Courtroom 3.400 to await trial in Courtroom 3.100. If any person tests positive for COVID-19, or declines testing, that person will be directed to one of the jury rooms on the third floor, and court and counsel will confer as to next steps.

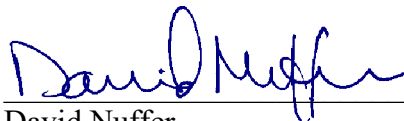
4. The circumstances are fluid, during proceedings and because more will be known only on the morning of Monday May 16, 2020, yet the courtroom has to be prepared before that time. Accordingly, extraordinary temporary precautions will be taken on Monday, May 16, 2022. The trial seating arrangements will be as attached. The jury will not be seated next to each other; plexiglass will be placed between the first and second rows of jurors; counsel and trial teams will be somewhat distanced; and all persons in the courtroom will be required to wear masks, except for witnesses when testifying and examining counsel. At the end of the day Monday, court and counsel will confer regarding practices for the next day.

5. Jury breaks Monday on May 16, 2022 will be taken in courtroom 3.400 which will provide ample distancing for the jury. The jury will be excused for lunch and not take lunch together in the jury deliberation room as is the usual custom.

6. The conditions in this order will be revisited and revised Monday May 16, 2022, after experience gained, and after conferring with counsel and others.

Signed May 14, 2022.

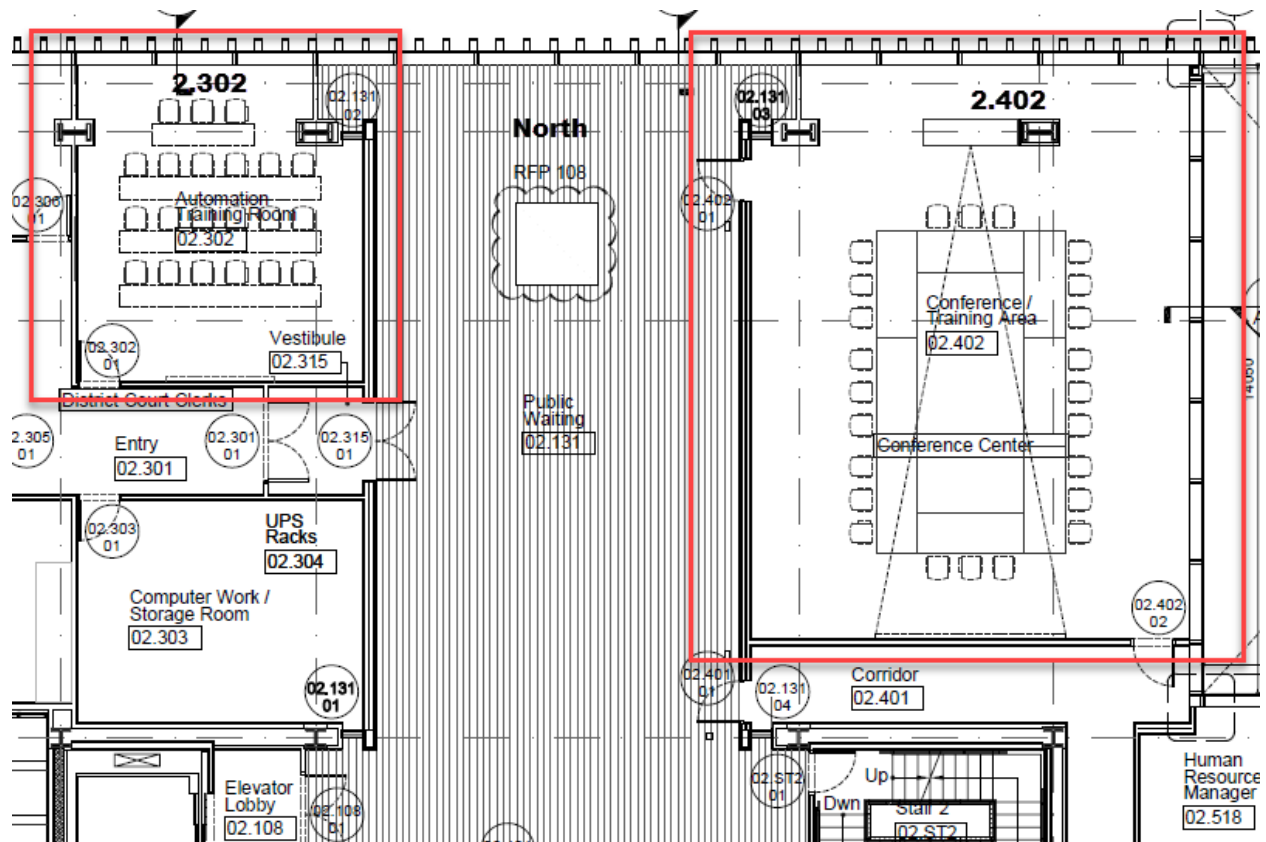
BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

Testing Locations – March 16, 2022

Courthouse Second Floor – NORTH end



						CSO	X							
							X	19		20				
							X							
							X							
							X	15		16		17		18
							X							
							X	11		12		13		14

Courtroom 3.100 – May 16, 2022

Monitor

Table

P's Table
(temporary)
3

D's Table
2

P's Table
2

Table

D's Table
1

P's Table
1

5	10
3	9
3	8
2	7
1	6